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OFFICE OF PETITIONS

In re Application of :
Burgan, et al. :
Application No. 09/944,615 : **ON PETITION**
Filed: August 31, 2001 :
Attorney Docket No. PTO3307U :
For: MESSAGING SYSTEM PROVIDING MESSAGE :
REDUNDANCY REDUCTION :

This is a decision on the petition under 37 CFR 1.137(a), filed April 13, 2005, requesting revival of the above-identified application. The petition will be treated under 37 CFR 1.181, as a request to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to the final Office action, mailed August 10, 2004, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on November 11, 2004 for failure to reply to the August 10, 2004 final Office action. A Notice of Abandonment was mailed on March 10, 2005.

Petitioners assert an amendment was timely transmitted via facsimile to and received by the Office on November 10, 2004. The Office has no record of receiving these items. However, the copy of the itemized Transmittal Form submitted with the instant petition contains a proper certificate of facsimile transmission citing a November 10, 2004 date of deposit. The Transmittal Form states that an After-final Amendment and Fee Transmittal Form was enclosed.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence of facsimile transmission on November 10, 2004. Specifically, petitioners have submitted a copy of their USPTO Auto-Reply Facsimile Transmission which shows that 14 pages was received in the Office on November 10, 2004. The

Received Cover Page printed on the first page of the Auto-Reply Facsimile Transmission is the aforementioned Transmittal Form.

The petition under 37 CFR 1.181 is **GRANTED** and the Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

Accordingly, the application file will be forwarded to the Technology Center A.U. 2635's technical support staff for entry of the November 10, 2004 amendment. Thereafter, the application file will be forwarded to the examiner of record for action in due course.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy